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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JERRY ALEXANDER, MARTY COHEN,
CHARLES DELLE DONNE, RICHARD
SCOTT ELDER, ARNIE GETTELSON, MARC
HARRIS, JERRY HOLLANDER, ELIAS
KASSOUF, JEFF MACKINEN, DON
MARSHALL, JERRY McDONALD, RON
MELANSON, KEN MILES, MARVIN MILLS,
MARC MORIN, ROBERT PARKER, DENNIS
POULSEN, RON SMITH, ANDREW TANNER,
CRAIG TIEFENTHALER, VIRGINIA
WALLACE, and GERALD WOLFE, on behalf
themselves and all others similarly situated

Plaintiffs,

v.

DEAN MEILING, MADYLON MEILING,
JAMES PROCTOR, JANET CHUBB,
individuals, CHEMEON SURFACE
TECHNOLOGY, LLC, METALAST SURFACE
TECHNOLOGY, LLC, D&M-MI, LLC, DSM
PARTNERS, LTD., MEILING FAMILY
PARTNERS, LTD., and MERIDIAN
ADVANTAGE,

Defendants.

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<input type="checkbox"/> ENTERED	<input type="checkbox"/> SERVED ON
COUNSEL/PARTIES OF RECORD	
SEP 30 2019	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY _____

CASE NO.: 3:16-cv-00572-MMD-CBC

**PLAINTIFFS' MOTION TO PERMIT
JAMES D. BOYLE, ESQ. TO APPEAR
TELEPHONICALLY FOR STATUS
CONFERENCE**

ORDER

Pursuant to LR II 7-2, Plaintiffs Jerry Alexander, Marty Cohen, Charles Delle Donne, Richard Scott Elder, Arnie Gettelson, Marc Harris, Jerry Hollander, Elias Kassouf, Jeff Mackinen, Don Marshall, Jerry McDonald, Ron Melanson, Ken Miles, Marvin Mills, Marc Morin, Robert Parker, Dennis Poulsen, Ron Smith, Andrew Tanner, Craig Tiefenthaler, Virginia Wallace, and Gerald Wolfe (collectively, "Plaintiffs") hereby submit this Motion to Permit James D. Boyle, Esq. to Appear Telephonically (the "Motion") for a status conference presently scheduled for October 2, 2019, at 2:00 p.m. Pacific Standard Time (the "Status Hearing"). By this Motion, James D. Boyle, Esq. ("Mr. Boyle") requests to attend the status conference telephonically. This Motion is based on the Memorandum of Points and Authorities set forth below, the pleadings and records on file in this matter, and any oral argument made to this Court.

MEMORANDUM OF POINTS AND AUTHORITIES

This action is presently stayed pursuant to two separate Orders entered by the Court: (1) a Minute Order entered by the Honorable Magistrate Judge Valerie P. Cooke on July 26, 2017, which stayed the entire proceedings pending resolution of a collateral matter by the Ninth Judicial District Court for the State of Nevada (the "State Court Action") (*see* ECF Nos. 99 and 100); and (2) an Order entered by Magistrate Judge Valerie P. Cooke on March 21, 2018, stating that "[d]iscovery in this matter shall remain STAYED until the final resolution of appeals in the [State Court Action]" (*see* ECF No. 107).

On February 23, 2018, the Honorable Thomas W. Gregory entered an Order Denying Motion for Preliminary Injunction in the State Court Action. On July 24, 2019 the Supreme Court of the State of Nevada (the "State Supreme Court") entered an Order of Affirmance, affirming the decision and judgment made by Judge Gregory. On July 25, 2019 Plaintiffs filed a Request for Judicial Notice of Order of Affirmance by the Supreme Court of the State of Nevada (*see* ECF No. 121). On August 13, 2019 Defendants Chemeon Surface Technology, LLC, D&M-MI, LLC, DSM Partners, Ltd., Dean Meiling, Madylon Meiling, Meiling Family Partners. Ltd., and Metalast Surface Technology, LLC (together, the "Meiling Defendants") filed a Notice of Status of Nevada Supreme Court Appeal, requesting that this Court take judicial notice that the Meiling Defendants had lodged a Petition for Rehearing with the State Supreme Court (*see* ECF

No. 122). On September 3, 2019 the State Supreme Court entered an Order Denying Rehearing as to the Meiling Defendants' Petition for Rehearing. On September 4, 2019 Plaintiffs filed a Request for Judicial Notice of Order Denying Request for Rearing by the Supreme Court of the State of Nevada (*see* ECF No. 123). The Meiling Defendants subsequently lodged a second Notice of Status of Nevada Supreme Court Appeal on September 18, 2019, notifying this Court that the Meiling Defendants had filed a Petition for En Banc Rehearing with the State Supreme Court (*see* ECF No. 124).

On September 26, 2019, Plaintiffs' counsel received an email request from chambers for the Honorable Magistrate Judge Carla B. Carry, inquiring in to the availability of counsel in this action to attend a status conference, which this Court preferred to stack with a hearing on a Motion to Stay Discovery filed in the matter of *Harris v. Meiling, et al.*, Case No. 3:19-cv-0399-MMD-CBC (the "Elder Abuse Action"), which hearing is set for October 2, 2019 at 1:00 p.m. Pacific Daylight Time. Plaintiffs' counsel responded in the affirmative to this inquiry on September 27, 2019.

Initially, this Court should note that Mr. Boyle is not counsel of record in the Elder Abuse Action. As such, he was not scheduled to appear for the hearing in the Elder Abuse Action on October 2, 2019. Mr. Boyle indicated that he is available for a status hearing in this action at 2:00 p.m. on October 2, 2019, particularly insofar as Mr. Boyle's co-counsel in the representation of Plaintiffs in this action (Marc Y. Lazo, Esq., admitted in this action *pro hac vice*) will be present for the hearing set in the Elder Abuse Action and Mr. Lazo will be attending the status conference. Additionally, Mr. Boyle has primary knowledge on behalf of Plaintiffs regarding the collateral State Court Action matters which are directly implicated in the present stay of this action.

On the short notice provided for the status conference, the expense for Mr. Boyle to travel between Las Vegas, Nevada to Reno, Nevada for the status conference is high. Mr. Boyle seeks to avoid the cost to Plaintiffs of a short-term booking of flight and ground transportation, plus attorneys' fees incurred regarding same, to attend the status conference in person. Thus, as a means of mitigating these expenses to Plaintiffs, Mr. Boyle respectfully requests that he be

1 permitted to attend the status conference telephonically. As mentioned, Mr. Lazo will appear in-
2 person on behalf of Plaintiffs.

3 Plaintiffs therefore respectfully suggest that good cause exists to permit Mr. Boyle to
4 appear telephonically for the status conference on October 2, 2019, at 2:00 p.m. Pacific Daylight
5 Time.

6 Dated this 30th day of September, 2019.


7 **HOLLEY DRIGGS WALCH FINE**
8 **PUZEY STEIN & THOMPSON**

9 /s/ James D. Boyle

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20 *Attorneys for Plaintiffs*

21 **IT IS SO ORDERED**
22 
23 **U.S. MAGISTRATE JUDGE**
24 **DATED: 9/30/2019**